

JERSEY / JUDGMENT

The Attorney General v Gas Services (Jersey) Ltd

COURT

Royal Court

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Inferior Number Sentencing - Health and safety**[2019]JRC076****Royal Court****(Samedi)****3 May 2019****Before :**

A. J. Olsen, Esq., Lieutenant Bailiff, and

Jurats Ronge and Hughes

The Attorney General

-v-

Gas Services (Jersey) Ltd

Sentencing by the Inferior

Number of the Royal Court, following a guilty plea to the following charge:

1 count of:

Contravention of Article 21(1)(a) of the Health

and Safety at Work (Jersey) Law 1989, as amended (Count 1).

Plea: Guilty.

Details of Offence:

Gas Services (Jersey) Limited

("the Defendant") was contracted to undertake routine safety checks, servicing and repairs of the boilers and all other gas fired appliances at L'Hermitage, a 42-bed care home for elderly residents..

L'Hermitage had four 100kW gas-fired, condensing boilers in the basement that supplied the home with heating and hot water. In April 2017 there was a

problem with boiler number 3, and it was taken out of service whilst replacement parts were ordered. On

Friday 9th March, 2018, the Defendant was instructed to install the required parts to boiler 3 at L'Hermitage, and bring it back into

service. The Defendant was also

instructed to carry out scheduled annual safety checks and servicing of the boilers and any other gas-fired appliances at L'Hermitage.

Arron Mawson, an employee of the

Defendant, arrived on site at approximately 1:30pm that afternoon. Whilst on site, he realised that the electronic portable combustion gas analyser supplied

to him by the Defendant was not working correctly. The gas analyser is used to measure gases

produced during combustion, including carbon monoxide.

The Defendant did not have a policy

in place which made it clear to its employees what they should do in the event the combustion gas analyser failed. Additionally, there was no policy or process to check the operation of the combustion gas analyser prior to the employee attending on site.

In the absence of a working gas

analyser, Arron Mawson checked the "flame picture" of the boilers to ascertain how well the boilers were combusting and conducted a 'smoke test' on each of the flues. He then brought all four boilers into operation (without performing combustion analysis) and left the site.

By not performing gas combustion

analysis Arron Mawson did not establish whether the boilers were combusting safely, because he could not ascertain what levels of carbon monoxide were being produced by the boilers.

From that Friday evening, staff and

residents of L'Hermitage began suffering from symptoms that may be associated to carbon monoxide poisoning. These symptoms continued and worsened

until the Sunday when the gas emergency service was contacted. Staff reported developing headaches and

feeling unwell, elevated pulses, a blurring of vision and difficulty in balancing when walking.

At approximately 5pm on Sunday 11th

March, 2018, a Jersey Gas Engineer arrived at the site following a telephone call from concerned staff members.

He found that 3 of the boilers were combusting poorly, with one boiler producing carbon monoxide at a rate that was 'off the record' of the gas analyser device. It was

later established that a flue had become disconnected in the roof void of the property. It was a culmination of

the disconnected flue, and the boilers combusting inefficiently which resulted in the exposure to carbon monoxide. The Crown was unable to prove that the flue was disconnected when Arron Mawson conducted work at the site, but it was clear that he left the boilers combusting in an unsafe condition.

Details of Mitigation:

Infraction admitted, the

offending did not arise as a result of cost-cutting measures, the Defendant had no previous convictions.

The Defendant provided its

financial accounts which showed that it was performing poorly.

Previous Convictions:

None.

Conclusions:

Count 1:

£35,000 fine

Costs order sought in the sum of
£5,000 towards the Prosecution.

Sentence and Observations of Court:

Count 1: £20,000 fine,
Costs order made in
the sum of £2,000 towards the Prosecution.
Fine and costs to be paid
within 18 months from today.
M. R. Maletroit, Esq., Crown Advocate.
Advocate C. Hall for the Defendant.

JUDGMENT

THE Lieutenant BAILIFF: 1. For reasons which will be delivered in a judgment shortly the decision of the court is that there will be a fine in this case of £20,000 and the defendant will have 18 months in which to pay it. 2. I award a contribution towards costs in the sum of £2,000 and again there will be 18 months to pay. Authorities AG v Hamel Brothers Limited [2010] JRC 080 AG v Petroleum Distribution (Jersey) Limited

[2018] JRC190 R-v-F Howe and Son (Engineers) Limited [1999] 2 CR. App. R. (S) 37.

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